

# FIFTY-NINTH DAY

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THURSDAY, APRIL 24, 1997

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## PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President announced that a quorum of the Senate was present.

Senate Doorkeeper Don Long offered the invocation as follows:

### The Secret

I met God in the morning  
When my day was at its best,  
And His presence came like sunrise,  
Like a glory in my breast.

All day long the presence lingered,  
All day long He stayed with me,  
And we sailed with perfect calmness  
O'er a very troubled sea.

Other ships were blown and battered,  
Other ships were sore distressed,  
But the winds that seemed to drive them  
Brought to us a peace and rest.

Then I thought of other mornings,  
With a keen remorse of mind,  
When I too had loosed the moorings,  
With the presence left behind.

Oh, I think I know the secret,  
Learned from many a troubled way;  
You must meet God in the morning,  
If you want Him through the day!

— Ralph Cushman

Let us meet God this morning in prayer.

Almighty God and our heavenly Father, our prayer today is the same as that placed upon a plaque at the Josephine Davidson Memorial Chapel near Diana, Texas. "In the (spring) let the spirit of liberty from constitutional government flow as the rivers to the sea."  
And God, bless Texas. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### **LEAVE OF ABSENCE**

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of important business.

#### **CO-AUTHOR OF SENATE BILL 310**

On motion of Senator Brown and by unanimous consent, Senator Wentworth will be shown as Co-author of **SB 310**.

#### **CO-AUTHOR OF SENATE BILL 1122**

On motion of Senator Armbrister and by unanimous consent, Senator Carona will be shown as Co-author of **SB 1122**.

#### **CO-AUTHOR OF SENATE BILL 1163**

On motion of Senator Zaffirini and by unanimous consent, Senator Madla will be shown as Co-author of **SB 1163**.

#### **CO-AUTHOR OF SENATE BILL 1164**

On motion of Senator Zaffirini and by unanimous consent, Senator Madla will be shown as Co-author of **SB 1164**.

#### **CO-AUTHOR OF SENATE BILL 1165**

On motion of Senator Zaffirini and by unanimous consent, Senator Madla will be shown as Co-author of **SB 1165**.

#### **CO-AUTHOR OF SENATE BILL 1476**

On motion of Senator Shapiro and by unanimous consent, Senator Moncrief will be shown as Co-author of **SB 1476**.

#### **CO-AUTHOR OF SENATE BILL 1674**

On motion of Senator Barrientos and by unanimous consent, Senator Wentworth will be shown as Co-author of **SB 1674**.

#### **INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED**

Senator Truan was recognized and announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
Thursday, April 24, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HJR 4**, Proposing a constitutional amendment providing financial support for elementary and secondary public education, dedicating revenue and authorizing priority allocations of certain revenue, authorizing a state property tax and certain taxes on entities, providing property tax relief and reduced school taxes on residential property, including certain homestead property, and making implementation and conforming amendments.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**GUEST PRESENTED**

The President introduced to the Senate Dr. James Henry Duke, also known as Dr. Red Duke, of The University of Texas Health Science Center at Houston.

The Senate welcomed Dr. Duke.

**CAPITOL PHYSICIAN**

The "Doctor for the Day," Dr. Wilford Morris of Sealy, was introduced to the Senate by Senator Armbrister.

The Senate expressed appreciation and gratitude to Dr. Morris for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
April 23, 1997

**TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE,  
REGULAR SESSION:**

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

**TO BE MEMBERS OF THE TEXAS APPRAISER LICENSING AND  
CERTIFICATION BOARD** for terms to expire January 31, 1999:

LEONEL GARZA, Jr.  
Rural Route 7, Box 552  
McAllen, Texas 78504

Mr. Garza is being reappointed.

EDUARDO A. LOPEZ  
5418 Fox Run  
Corpus Christi, Texas 78413

Mr. Lopez will be replacing Cecil W. Wimberly of Meridian whose term expired.

ROBERT A. "PETE" SEALE, Jr.  
3435 Westheimer, #1606  
Houston, Texas 77027

Mr. Seale will be replacing Vidal Gonzalez of Del Rio whose term expired.

JAMES MELVIN SYNATZSKE  
P. O. Box 1663  
Stephenville, Texas 76401

Mr. Synatzske will be replacing A. E. "Butch" Nelson, Jr., of Abilene whose term expired.

Respectfully submitted,

/s/George W. Bush  
Governor of Texas

#### **PERMISSION TO INTRODUCE BILL AND RESOLUTION**

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bill and resolution:

**SB 1935, SJR 48**

#### **GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate a group of students from Tyler Street Christian Academy of Dallas and their teachers and parents.

The Senate welcomed its guests.

#### **SENATE RESOLUTION 538**

Senator Barrientos offered the following resolution:

WHEREAS, April 20 through April 26, 1997, is National Organ and Tissue Donor Awareness Week, and the Texas Senate is proud to pay tribute to the men and women who have donated organs so that others might live; and

WHEREAS, More than 2,124 Texas men, women, and children are currently awaiting transplants of life-saving organs, and the number increases daily; and

WHEREAS, The goal of the 1997 campaign is to encourage as many new people to sign donor cards as needed to make up the difference between the number of people who could donate their organs and the number of people who actually do donate their organs each year; and

WHEREAS, It is especially important during National Organ and Tissue Donor Awareness Week to educate all Texans about the life-saving power of

organ donation and to dispel the myths and misconceptions that prevent people from signing donor cards; and

WHEREAS, Organ allocation is both fair and ethical; available organs are matched with people on the waiting list according to blood and tissue type and medical need, among other factors; and

WHEREAS, Nationally, nine to 10 people die each day waiting for a life-saving transplant; the National Kidney Foundation is committed to ensuring that every Texan who needs a transplant receives one; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby recognize National Organ and Tissue Donor Awareness Week, April 20 through April 26, 1997, and urge all Texans to become aware of the importance of organ donation; and, be it further

RESOLVED, That a copy of this Resolution be prepared for National Organ and Tissue Donor Awareness Week as an expression of the appreciation of the Texas Senate for all those who make this week possible.

The resolution was again read.

The resolution was previously adopted on Tuesday, April 22, 1997. The names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

#### **GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate Imelda Gould and Rita Littlefield representing National Organ and Tissue Donor Awareness Week.

The Senate welcomed its guests.

(Senator Truan in Chair)

#### **REPORT OF COMMITTEE ON NOMINATIONS**

Senator Madla submitted the following report from the Committee on Nominations:

#### **TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE:**

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Members of the LOWER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: Pamela Ruth Wilson Akins, Burnet County; Gay Warren Gaddis, Travis County; Frederick Loren Henneke, Kerr County; Patricia Jean Kirk, San Saba County; Hilda C. Kroll, Blanco County; Gale Minzenmeyer Lincke, Fayette County; Arthur J. Milberger, Matagorda County; E. Peter Pincoffs, Travis County; Steve D. Rivers, Bastrop County; John J. Weidner, Brown County.

To be Members of the TEXAS BOARD OF NURSING FACILITY ADMINISTRATORS: Ramona Dover Kennedy, Denton County; Jack Ray Tinsley, Collin County; Jerry Turner, Hill County; Audrey G. Williamson, Bastrop County.

To be Members of the BRAZOS RIVER AUTHORITY BOARD OF DIRECTORS: Mary E. Ainslie, Fort Bend County; Robert Bates Arnot, Stephens County; Rodolfo Garcia, Brazoria County; Shirley Macklin Herring, Washington County; Ernest M. Koy, Austin County; James Rodney Lee, McLennan County; Nancy Nielsen Rabb, Williamson County.

To be Members of the CENTRAL COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: Ann Miller Hargett, Coleman County; Nan Knox Markland, Coleman County; Ronald W. Owens, Coleman County.

To be Members of the UPPER COLORADO RIVER AUTHORITY BOARD OF DIRECTORS: George "Ray" Alderman, Runnels County; Ralph Edward Hoelscher, Tom Green County; Jeffie Harmon Roberts, Coke County; Dorris M. Sonnenberg, Coke County.

To be Members of the UPPER GUADALUPE RIVER AUTHORITY BOARD OF DIRECTORS: Marsha E. Copeland, Kerr County; T. Beck Gipson, Kerr County; George Granger MacDonald, Jr., Kerr County; William H. Williams II, Kerr County.

To be Members of the GUADALUPE-BLANCO RIVER AUTHORITY BOARD OF DIRECTORS: William A. Blackwell, DeWitt County; Anne Cooper, Hays County; Ashley Holmes Turberville, Gonzales County.

To be Members of the LAVACA-NAVIDAD RIVER AUTHORITY BOARD OF DIRECTORS: Sandra Rae Green, Jackson County; Charles M. "Chuck" Hasdorff, Jackson County; Michael W. Menefee, Jackson County.

To be Members of the NUECES RIVER AUTHORITY BOARD OF DIRECTORS: Quinna Ernestine Jessup Carson, Edwards County; William I. Dillard, Uvalde County; James F. Dodson, Nueces County; Ariel Antonio Garcia, Nueces County; Hazel R. Graff, Medina County; Kay Lynn Jasik, Atascosa County; Beth Reavis Knolle, Jim Wells County; Patty Puig Mueller, Nueces County.

To be Members of the SABINE RIVER AUTHORITY BOARD OF DIRECTORS: Karen C. Hampton, Smith County; Joyce Plummer Hugman, Gregg County; Margin Stovall Latham, Hopkins County.

To be SABINE RIVER COMPACT COMMISSIONER FOR TEXAS: Frank Edward Parker, Shelby County.

#### **NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Madla gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

#### **GUESTS PRESENTED**

Senator Wentworth was recognized and introduced to the Senate a group of seventh-grade students from Saint George Episcopal School of San Antonio and their teachers and parents.

The Senate welcomed its guests.

**(Senator Armbrister in Chair)**

**GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate children of employees of the Texas Department of Licensing and Regulation and children of employees of all state agencies who were present today.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Truan was recognized and introduced to the Senate a group of Premont High School seniors accompanied by their teachers Annie Racio and Carmen Perez and chaperones Terry Carlile and Nancy Teague.

The Senate welcomed its guests.

**GUEST PRESENTED**

Senator Truan was again recognized and introduced to the Senate Miguel Angel Najera Herrera, Deputy and Chair of the Administration Committee, Aguascalientes State Congress, Aguascalientes, Mexico, who is visiting under the auspices of the United States Information Agency's International Visitor Program.

The Senate welcomed its distinguished guest.

**SENATE RESOLUTION 569**

Senator Brown offered the following resolution:

WHEREAS, It is a distinct pleasure for the Texas Senate to recognize Lynne Liberato, Chair of the Board of Directors of the State Bar of Texas for 1996-1997; and

WHEREAS, A partner with the Houston law firm of Haynes and Boone and co-chair of its appellate section, Lynne Liberato has a distinguished record of public service to the people of Texas; and

WHEREAS, After graduating from East Texas State University with a master of science degree in 1976, she earned her Juris Doctor degree from South Texas College of Law in 1980; from 1981 to 1990 she was Chief Staff Attorney for the First Court of Appeals in Houston; and

WHEREAS, Chair of the State Bar Appellate Section for 1997-1998, Lynne Liberato has worked tirelessly on behalf of the State Bar of Texas and its executive committee; and

WHEREAS, Her professional life is filled with her active involvement in legal organizations and she has served on numerous committees and boards related to her profession; the first woman president of the Houston Bar Association, Lynne is a fellow of the Texas Bar Foundation and a member of The American Law Institute; and

WHEREAS, Dedicated to the principles of the judicial system, Lynne Liberato has earned the admiration and respect of those with whom she is associated; and

WHEREAS, She has freely shared her knowledge and expertise with her community through her work as a trustee of the United Way of Texas Gulf Coast and as an advisory board member of the University of Houston, The Institute for Urban Education; and

WHEREAS, Honored for her exceptional accomplishments in the field of law, Lynne Liberato was chosen as Top 1993 Female Leader by the *Houston*

*Post* and Young Women's Christian Association's Woman of the Year in Law for 1993; she was named the Distinguished Alumna of the Year in 1992 by South Texas College of Law and was honored with the Distinguished Alumni Award from Sam Houston State University in 1996; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend Lynne Liberato for her work as Chair of the Board of Directors of the State Bar of Texas for 1996-1997; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of the high regard of the Texas Senate.

BROWN  
TRUAN

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brown, the resolution was adopted by a viva voce vote.

#### GUEST PRESENTED

Senator Brown was recognized and introduced to the Senate Lynne Liberato, Chair, Board of Directors of the State Bar of Texas.

The Senate welcomed Ms. Liberato.

#### SENATE RESOLUTION 570

Senator Truan offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing M. Colleen McHugh, the 1996-1997 president of the State Bar of Texas; and

WHEREAS, A highly successful attorney with Wells Pinckney and McHugh in Corpus Christi, Texas, Colleen McHugh has consistently upheld the best of legal traditions throughout her career and has contributed generously to the legal community in Texas; and

WHEREAS, As president of the State Bar of Texas, Colleen McHugh has managed her far-reaching responsibilities with skill and dedication; noted for her expertise and diligence, she is an admired mentor and leader to the lawyers of our state; and

WHEREAS, In addition to her many responsibilities as president of the State Bar of Texas, Colleen McHugh serves in the House of Delegates of the American Bar Association and has served on the Board of Trustees of the Texas Bar Foundation; she has served on the Board of Directors of the State Bar of Texas since 1990; and

WHEREAS, A graduate of Saint Mary's University School of Law, Colleen McHugh is a well-known leader in the Corpus Christi community and has served on the Board of Directors of the Corpus Christi Chamber of Commerce and the Greater Corpus Christi Business Alliance; she is a member of the Board of Directors of the USS Museum; and

WHEREAS, An exemplary and distinguished lady, Colleen McHugh is highly respected by her colleagues in the legal field, and her many



accomplishments are a source of much pride to her family, the City of Corpus Christi, and the State of Texas; now, therefore, be it

**RESOLVED**, That the Senate of the State of Texas, 75th Legislature, hereby commend M. Colleen McHugh on her outstanding leadership as president of the State Bar of Texas and express appreciation to her for her many contributions to her community and state; and, be it further

**RESOLVED**, That a copy of this Resolution be prepared for her as an expression of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan, the resolution was adopted by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Truan was recognized and introduced to the Senate Colleen McHugh, President of the State Bar of Texas accompanied by E. A. "Trey" Apffel III, Board Member from Texas City; David Evans, Board Member from Fort Worth; Richard Orsinger, Section Chair from San Antonio; Jan Soifer, Board Member from Austin; Betsy Whitaker, Board Member from Dallas; and Tony Alvarado, Executive Director of the State Bar of Texas.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Lucio was recognized and introduced to the Senate Rass LaFour, Del Ray LaFour, Colonel Earl Krueger, and Jerry Krueger of Mesa, Arizona; and Hugh Nations of Austin.

The Senate welcomed its guests.

#### **COMMITTEE SUBSTITUTE SENATE BILL 118 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 118**, Relating to placement of certain children in certain long-term care institutions.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 118 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 118** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

CSSB 118 was read third time and was passed by a viva voce vote.

### SENATE BILL 928 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 928**, Relating to employment as a firefighter in certain municipalities.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 928** by striking all below the enacting clause and substituting the following:

SECTION 1. Sections 142.0017(b) and (d), Local Government Code, are amended to read as follows:

(b) A fire fighter or fire fighter emergency medical personnel may not be required or permitted to work more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head [calendar year]. If the fire fighter or fire fighter emergency medical services employee is required to work more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head [calendar year], the person is entitled to be compensated for the overtime as provided by Subsection (f).

(d) If a majority of the members of the fire department working as fire alarm dispatchers sign a written agreement with the municipality that allows the municipality to require or permit fire alarm dispatchers to average a specified number of hours of work a week that is more than the number of hours allowed under Subsection (c) but not more than an average of 46.7 hours a week during a 72-day work cycle designated by the department head, the municipality may adopt a work schedule for the members of the fire department working as fire alarm dispatchers in accordance with the agreement. If under Subsection (f) a member of a fire department working as a fire alarm dispatcher is required to work more than the number of hours allowed under the agreement, the person is entitled to be compensated for the overtime as provided by Subsection (f). Each agreement adopted under this subsection expires as provided by the agreement, but not later than the first anniversary of the date that the agreement takes effect. Subsection (c) applies when an agreement adopted under this subsection is not in effect.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

**SB 928** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 928 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 928** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 928** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1034 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1034**, Relating to funding instruction in languages other than English in public schools.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1034 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1034** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1034** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 596 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 596**, Relating to the definition of "affected person" for purposes of a contested case hearing held by or for the Texas Natural Resource Conservation Commission.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 596 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 596** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 596** was read third time and was passed by a viva voce vote.

**RESOLUTION SIGNED**

The Presiding Officer, Senator Armbrister in Chair, announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 210**

**SENATE BILL 1795 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1795**, Relating to the taxable value of property of a school district that does not offer each grade level from kindergarten to 12th grade.

The bill was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Carona asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 1795 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1795** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Carona.

Absent-excused: Luna.

**SB 1795** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Carona asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE**

**SENATE BILL 1578 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1578**, Relating to meetings of the Texas Higher Education Coordinating Board to consider higher education impact statements.

The bill was read second time and was passed to engrossment by a viva voce vote.

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1578 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1578** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1578** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**GUESTS PRESENTED**

Senator Armbrister was recognized and introduced to the Senate the Reverend W. B. "Bernie" Sandberg, Pastor of the First United Methodist Church of San Marcos, and members of its congregation.

The Senate welcomed its guests.

**SENATE BILL 1697 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1697**, Relating to the liability of a municipality for damages arising from its governmental functions.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1697** in SECTION 1, Section 101.0215(a)(34), Civil Practice and Remedies Code (page 2, line 27) by striking "activity" and substituting "activities undertaken by a municipality pursuant to Chapter 373, Local Government Code"

The committee amendment was read and was adopted by a viva voce vote.

**SB 1697** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 1697 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1697** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 1697** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1276 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1276**, Relating to permits for overweight vehicles in certain counties.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1276**, committee printing, as follows:

On page 1, line 41; **SECTION 1**, Section 623.214, add the following sentence after the word "collected."

Such fees shall be deposited in State Highway Fund 6.

On page 2, line 6, **SECTION 1**, Section 623.219, delete sentence on lines 6 through 7; and add the following:

This Act will expire on March 1, 2001.

The amendment was read and was adopted by a viva voce vote.

**CSSB 1276** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1276 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1276** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1276** was read third time and was passed by a viva voce vote.

**SENATE BILL 483 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 483**, Relating to the salary of an official court reporter.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 483 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 483** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 483** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**SENATE BILL 1393 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1393**, Relating to the prohibition of issuing a permit for a municipal solid waste facility within a certain distance of a residence, place of worship, school, day-care center, drinking water supply, or park.

The bill was read second time.

Senator Lindsay offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1393** by inserting the following after park on line 18, page 1: ", unless a site-specific, risk-based evaluation indicates otherwise"

The committee amendment was read and was adopted by a viva voce vote.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 1393** by adding the following new SECTION to be renumbered appropriately to read as follows:

SECTION \_\_. Section 361.020(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall develop a strategic state solid waste plan for all solid waste under its jurisdiction. The commission shall develop a strategic plan for the reduction of solid waste. The strategic plan shall include provisions to:

(1) restrict the siting of solid waste facilities so as to minimize the adverse effects of those facilities on low-income communities; and

(2) require the consideration of the cumulative effect the presence of multiple sources of pollution and other nuisances may have on the community surrounding a solid waste facility.

The amendment was read.

On motion of Senator West and by unanimous consent, Floor Amendment No. 1 was withdrawn.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **SB 1393** by adding the following new SECTION to be renumbered appropriately to read as follows:

SECTION \_\_. Section 361.020(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall develop a strategic state solid waste plan for all solid waste under its jurisdiction. The commission shall develop a strategic

plan for the reduction of solid waste. The strategic plan shall include provisions to:

(1) restrict the siting of solid waste facilities so as to minimize the concentration of those facilities in any residential community; and

(2) require the consideration of the cumulative effect the presence of multiple sources of pollution and other nuisances may have on the community surrounding a solid waste facility.

The amendment was read and was adopted by the following vote: Yeas 24, Nays 5.

Yeas: Barrientos, Bivins, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, West, Whitmire, Zaffirini.

Nays: Armbrister, Brown, Carona, Fraser, Wentworth.

Absent: Duncan.

Absent-excused: Luna.

**SB 1393** as amended was passed to engrossment by a viva voce vote.

#### RECORD OF VOTE

Senator Fraser asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### SENATE BILL 1393 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1393** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Carona, Fraser.

Absent: Duncan.

Absent-excused: Luna.

**SB 1393** was read third time and was passed by a viva voce vote.

#### RECORD OF VOTE

Senator Fraser asked to be recorded as voting "Nay" on the final passage of the bill.

#### GUEST PRESENTED

Senator Madla was recognized and introduced to the Senate Dr. Alfredo Gutierrez, Jr., Mayor of Del Rio.

The Senate welcomed Mayor Gutierrez.



**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Thursday, April 24, 1997

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 111**, Recognizing Dr. Alfredo Gutierrez, Jr., for his service to the city of Del Rio.

**HCR 208**, Honoring the memory of those members of the Dallas Police Department who have been killed in the line of duty.

**HCR 212**, Authorizing the lieutenant governor and speaker to appoint interim joint committees.

**HCR 218**, Congratulating the James Madison High School boys' basketball team on winning the 1997 Class 3-A state championship.

**SB 163**, Relating to coverage under health benefit plans for certain supplies and services associated with the treatment of diabetes.  
(Amended)

**SB 1487**, Relating to the repeal of the in-state need lease restriction on the sale of casinghead gas or natural gas out of the state.

**SCR 72**, Recognizing the Wesley Chapel Cemetery as it receives an Official Texas Historical Marker.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**SENATE BILL 20 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 20**, Relating to the creation of certain district courts.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 20** as follows:

Amend Section 1, lines 29-36 to read as follows:

~~Sec. 24.546. 401ST JUDICIAL DISTRICT (HARRIS COUNTY). The 401st Judicial District is composed of Harris County.~~

Sec. 24.5467. 401ST ~~402ND~~ JUDICIAL DISTRICT (TRAVIS COUNTY). The ~~401st~~ 402nd Judicial District is composed of Travis County.

Sec. 24.5478. 402ND ~~403RD~~ JUDICIAL DISTRICT (TRAVIS COUNTY). The ~~402nd~~ 403rd Judicial District is composed of Travis County.

Sec. 24.5489. 403RD ~~404TH~~ JUDICIAL DISTRICT (TRAVIS COUNTY). The ~~403rd~~ 404th Judicial District is composed of Travis County.

The amendment was read and was adopted by a viva voce vote.

**SB 20** as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 20 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 20** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 20** was read third time and was passed by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Sibley was recognized and introduced to the Senate a group of students from the Family Christian Academy of Waco.

The Senate welcomed its guests.

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 1460 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1460**, Relating to the establishment of excess benefit plans in connection with the optional retirement program for higher education employees.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 1460 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1460** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1460** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1752 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1752**, Relating to the purchase of goods and services by the state and to purchasing services provided by the state to local governments.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1752 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1752** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1752** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1674 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1674**, Relating to the creation, administration, powers, duties, operation, and financing of library districts; authorizing a tax and providing a penalty.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1674** as follows:

Delete the last sentence of proposed Sec. 326.091(a) on page 5 beginning on line 44.

The amendment was read and was adopted by a viva voce vote.

**CSSB 1674** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1674 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1674** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1674** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 70 ON THIRD READING**

Senator Haywood moved that the regular order of business be suspended and that **CSSB 70** be placed on its third reading and final passage.

**CSSB 70**, Relating to the eligibility of substitute teachers for unemployment compensation benefits.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Nays: Barrientos, Cain, Ellis, Gallegos, Moncrief, Shapleigh, Truan, West, Whitmire, Zaffirini.

Absent-excused: Luna.

**CSSB 70** was read third time and was passed by the following vote: Yeas 20, Nays 10. (Same as previous roll call)

**SENATE BILL 337 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 337**, Relating to sanctions that may be imposed on the holder of an alcoholic beverage permit or license.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 337** by striking SECTION 1 of the bill in its entirety and inserting in lieu thereof the following new SECTION 1:

SECTION 1. Section 11.64(a), Alcoholic Beverage Code, is amended to read as follows:

(a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis for the suspension is a violation of Section 11.61(b)(14), 22.12, 28.11, 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.63, or 106.06, or an offense relating to prostitution or gambling, in which case the commission or administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission shall adopt rules addressing when suspension may be imposed pursuant to this section without the opportunity to pay a civil penalty. The commission shall adopt rules addressing when suspension may be imposed

without the opportunity to pay a civil penalty. In adopting rules under this subsection, the commission shall consider the type of license or permit held, the type of violation, any aggravating or ameliorating circumstances concerning the violation, and any past violations of this code by the permittee or licensee. In cases in which a civil penalty is assessed, the [The] commission or administrator shall determine the amount of the penalty and in doing so shall consider the economic impact a suspension would have on the permittee or licensee. The amount of the civil penalty may not be less than \$150 or more than \$25,000 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, ~~[he loses the opportunity to pay it and]~~ the commission or administrator shall impose the suspension.

The amendment was read and was adopted by a viva voce vote.

SB 337 as amended was passed to engrossment by a viva voce vote.

#### SENATE BILL 337 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that SB 337 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SB 337 was read third time and was passed by a viva voce vote.

#### COMMITTEE SUBSTITUTE SENATE BILL 1031 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1031, Relating to the assignment of a lottery prize.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend CSSB 1031 in SECTION 3, Subdivision (3), Subsection (c) of proposed Section 466.410, Government Code, as follows:

- (1) On page 2, line 9 (committee printing), strike "and"
- (2) On page 2, line 13 (committee printing), strike "." and substitute "; and"
- (3) On page 2, after line 13 (committee printing), insert a new Paragraph (H) to read as follows:

"(H) acknowledges that the assignment will not have the effect of avoiding a child support obligation that may be owed by the assignor."

The amendment was read and was adopted by a viva voce vote.

CSSB 1031 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1031 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 1031 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

CSSB 1031 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1486 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1486, Relating to the regulation of motor carriers.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend CSSB 1486 by adding the following appropriately numbered sections and renumbering the existing sections as appropriate:

SECTION \_\_\_\_ . Section 34.003, Education Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) and (e) to read as follows:

(b) To transport students in connection with school activities other than on school bus routes to and from school:

(1) only school buses ~~or motor[;] buses [chartered from motor bus companies, or district-owned buses meeting the safety standards prescribed for vehicles used by motor bus companies]~~ may be used to transport 15 ~~[10]~~ or more students in any one vehicle; and

(2) passenger cars or passenger vans may be used to transport fewer than 15 ~~[10]~~ students.

(c) In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that the number of passengers in the vehicle does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

(d) In this section, "passenger van" means a motor vehicle, other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.

(e) "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.

SECTION \_\_\_\_ . Section 34.004, Education Code, is amended to read as follows:

Sec. 34.004. STANDING CHILDREN. A school district may not require or allow a child to stand on a school bus or passenger van that is in motion.

SECTION \_\_\_\_ . SECTION 34.003, Education Code, as amended by this Act, applies beginning with the 1997-1998 school year.

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1486** by adding the following appropriately numbered sections and renumbering the existing sections as appropriate:

SECTION \_\_. Section 5, Article 6675d, Revised Statutes, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A rule adopted under this article may not:

(1) prevent an intrastate operator from operating a vehicle up to 12 hours following eight consecutive hours off;

(2) require a person to meet the medical standards provided in the federal motor carrier safety regulations if the person:

(A) was regularly employed in this state as a commercial motor vehicle operator in intrastate commerce before August 28, 1989; and

(B) is not transporting property that requires a hazardous material placard; ~~or~~

(3) require a person to maintain a government form, separate company form, operator's record of duty status, or operator's daily log for operations within a 150-mile radius of the normal work-reporting location if a general record of an operator's hours of service can be compiled from:

(A) business records maintained by the owner that provide the date, time, and location of the delivery of a product or service; or

(B) documents required to be maintained by law, including delivery tickets or sales invoices, that provide the date of delivery and the quantity of merchandise delivered; ~~or~~

(4) impose during the planting and harvesting seasons maximum driving and on-duty times on operators of vehicles transporting agricultural commodities in intrastate commerce for agricultural purposes from the source of the commodities to the first place of processing or storage or the distribution point for the commodities, if the place is located within 150 air miles of the source.

(c) In this section, "agricultural commodity" means an agricultural, horticultural, viticultural, silvicultural, or vegetable product, bees or honey, planting seed, cottonseed, rice, livestock or a livestock product, or poultry or a poultry product that is produced in this state, either in its natural form or as processed by the producer, including woodchips.

SECTION \_\_. Section 522.004(a), Transportation Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) a vehicle that is controlled and operated by a farmer and:

(A) used to transport agricultural products, farm machinery, or farm supplies to or from a farm;

(B) used within 150 miles of the person's farm; and

(C) not used in the operations of a common or contract motor carrier;

(2) a fire-fighting or emergency vehicle necessary to the preservation of life or property or the execution of emergency governmental functions, whether operated by an employee of a political subdivision or by a volunteer fire fighter;

(3) a military vehicle, when operated for military purposes by military personnel, including:

(A) active duty military personnel; and

(B) members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel engaged in part-time training, and national guard military technicians;

(4) a recreational vehicle that is driven for personal use; ~~[or]~~

(5) a vehicle that is owned, leased, or controlled by an air carrier, as defined by Section 21.155, and that is driven or operated exclusively by an employee of the air carrier only on the premises of an airport, as defined by Section 22.001, on service roads to which the public does not have access; or

(6) a vehicle used exclusively to transport seed cotton modules or cotton burrs.

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSSB 1486** by striking Section 17 of the bill and substituting the following:

SECTION 17. (a) This Act takes effect September 1, 1997.

(b) Section 623.0155, Transportation Code, as added by this Act, does not apply to a contract or agreement entered into before the effective date of this Act.

The amendment was read and was adopted by a viva voce vote.

**CSSB 1486** as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Moncrief asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1486 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1486** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Moncrief.

Absent-excused: Luna.

**CSSB 1486** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Moncrief asked to be recorded as voting "Nay" on the final passage of the bill.

**(President in Chair)**



**COMMITTEE SUBSTITUTE  
SENATE BILL 55 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration at this time:

**CSSB 55**, Relating to the regulation of the sale, distribution, and use of tobacco products; providing penalties.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 55** was read second time.

**(Senator Duncan in Chair)**

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 55** as follows:

(1) In Article 2, Section 2.01, (page 5, lines 6 and 7) strike "a segregated fund called the tobacco education and enforcement fund." and replace with "an account in the General Revenue Fund.".

(2) In Article 4, Section 4.01, (page 7, line 3) strike "\$260" and replace with "\$230, except that a permit obtained or renewed before September 1, 1999 shall be no more than \$160.".

(3) In Article 4, Section 4.05, (page 8, line 1) strike "\$260" and replace with "\$230, except that a permit obtained or renewed before September 1, 1999 shall be no more than \$160.".

The amendment was read and was adopted by a viva voce vote.

**CSSB 55** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 55 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 55** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 55** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Bivins asked to be recorded as voting "Nay" on the final passage of the bill.

**GUESTS PRESENTED**

Senator Cain was recognized and introduced to the Senate a group of seventh-grade students from Saint John School of Ennis and their teachers and parents.

The Senate welcomed its guests.

**(Senator Brown in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 573 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 573**, Relating to creating a commercial real estate broker's lien.

The bill was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 573 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 573** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Harris.

Absent-excused: Luna.

**CSSB 573** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the final passage of the bill.

**(President in Chair)**

**SENATE BILL 1635 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1635**, Relating to increasing the efficiency of the utilization of the State ceiling for qualified mortgage bonds.

The bill was read second time.

Senator Duncan offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1635** by adding SECTION 9 to read as follows:

**SECTION 9.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The committee amendment was read and was adopted by a viva voce vote.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 1635** as follows:

1. Amend SECTION 2, Section 7, Chapter 1092, Acts of the 70th Legislature, Regular Session, 1987 (Article 5190.9a, Vernon's Texas Civil Statutes), by striking subsection (b) at page 2, lines 22-24 of the Committee Report and replace it with a new subsection (b) to read as follows:

(b) Issuers of qualified mortgage bonds shall close on the bonds for which a reservation has been granted not later than the 180th day after the reservation date.

2. Amend SECTION 5, Section 394.032, Local Government Code, by striking subsection (e) at page 3, lines 11-14 of the Committee Report and replace it with a new subsection (e) to read as follows:

(e) A housing finance corporation may delegate to the Texas Department of Housing and Community Affairs the authority to act, on its behalf in the financing, refinancing, acquisition, leasing, ownership, improvement, and disposal of home mortgages or residential developments, within and outside the jurisdiction of the housing finance corporation, including its authority to issue bonds for such purposes.

The amendment was read and was adopted by a viva voce vote.

**SB 1635** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 1635 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1635** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 1635** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Patterson in Chair)

**COMMITTEE SUBSTITUTE**

**SENATE BILL 507 ON SECOND READING**

On motion of Senator Nixon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 507**, Relating to certain traffic law offenses.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 507** by deleting SECTION 3.

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 507**, SECTION 4 by adding the following sentence at the end of Sec. 545.367:

This Section does not apply to the offense if it occurs within a year of the last such offense by the person.

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSSB 507** by striking SECTION 5.

The amendment was read and was adopted by a viva voce vote.

**CSSB 507** as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Wentworth asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 507 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 507** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

**CSSB 507** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos and Wentworth asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1586 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1586**, Relating to the scrap tire recycling program; providing criminal and civil penalties; making an appropriation.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend CSSB 1586 (committee printing) as follows:

(1) On page 1, between lines 44 and 45, insert new subsections (1) and (2) to read as follows, and renumber subsequent subsections accordingly:

"(1) 'Class I Region' means any area within 190 miles from the cities Dallas, Fort Worth, Houston, or San Antonio as that distance is determined by the Texas Department of Transportation Official Highway Map, and shall include the entirety of any county which has at least 50 percent of its area within that distance.

(2) 'Class II Region' means any area of the state which is not within a Class I Region."

(2) On page 3, strike lines 11 through 24, and substitute the following:

(1) \$2 for each new tire that has a rim diameter of 12 inches or more but less than 17.5 inches and \$1 for each good used tire that has a rim diameter of 12 inches or more but less than 17.5 inches;

(2) \$3.50 for each new tire that has a rim diameter of 17.5 inches or greater, other than an off-the-road tire intended for use on heavy machinery, including an earthmover, a loader/dozer, a grader, or mining equipment; and

(3) \$1.50 [~~\$2~~] for a new motorcycle tire, regardless of the rim diameter.

(3) On page 4, strike lines 52 through 56, and substitute the following:

"(1) pay ~~scrap~~ [waste] tire processors, scrap tire facilities, [waste] scrap tire energy recovery facility, or scrap tire recyclers owners or operators[, ~~or waste tire recyclers~~] that meet the requirements for payment under Section 361.477, 361.4771, or 361.4772[, ~~or 361.4773~~] and rules adopted under those sections;"

(4) On page 5, line 1, strike the word "and" and on line 3, before the period, insert the following:

": and

(6) pay \$200,000 annually to the Texas Department of Health to be used in counties located on and within 100 miles of the Texas Gulf Coast for mosquito control".

(5) On page 5, amend lines 22 and 23 to read as follows:

"(g) [~~(f)~~] The fund may not be used to reimburse shredding or burning of:"

(6) On page 5, strike all language from line 55 until the end of the sentence on page 6, line 53 and substitute the following:

"Sec. 361.477. PAYMENTS TO SCRAP [WASTE] TIRE PROCESSORS AND SCRAP TIRE FACILITIES AND SCRAP TIRE ENERGY RECOVERY FACILITIES. (a) The commission each calendar month shall pay a ~~scrap~~ [waste] tire processor or facility that shreds scrap tires and meets the requirements of this section and rules adopted under this section an amount equal to the following:

(A) five cents per pound [~~80 cents~~] for each pound of [weighed] tires generated from the Class I Region, and which scrap tires were shredded by the processor during the preceding calendar month; and

(B) five and one-half cents for each pound of tires generated from the Class II Region, and which scrap tires were shredded by the processor during the preceding calendar month.

(b) [~~If the total number of used or scrap tires or tire pieces contained in illegal scrap tire sites that are identified on the priority enforcement list is~~

~~below 2,500,000 tires, the] The commission may pay [80 cents or] an appropriate amount determined by the commission for each pound [weighed tire] to scrap tire processors, scrap tire facilities or scrap tire energy recovery facilities [processors] with whom the commission has contracted to remove and transport to scrap tire processors, scrap tire facilities or scrap tire energy recovery facilities [shred] scrap tires and scrap tire pieces from priority enforcement list sites. [The 2,500,000 tire limit does not include those tires contained in sites under commission enforcement or attorney general action or that require corrective action or remedial action in response to a release or threat of release of hazardous substances.] In acting under this subsection, the commission may contract with scrap tire processors or scrap tire facilities or scrap tire energy recovery facilities on a regional or site-specific basis."~~

(7) On page 7, strike lines 46 through 55 and substitute the following:

~~"(c) [(f)]~~ Until the commission has determined that a ~~scrap [waste]~~ tire processor, scrap tire facility and scrap tire energy recovery facility owner or operator ~~[processor]~~ is in compliance with all applicable requirements, the commission may not authorize the scrap tire processor, scrap tire facility or scrap tire energy recovery facility owner or operator to process, burn or store scrap tires or tire pieces at a site at which the scrap tire processor, scrap tire facility or a scrap tire energy recovery facility owner or operator ~~[processor]~~ processes, burns or stores or intends to process, burn or store scrap tires or tire pieces."

(8) On page 8, starting on line 41, strike all of section 361.4771 and substitute the following:

"Sec. 361.4771. PAYMENTS TO SCRAP TIRE RECYCLERS ~~[PAYMENT FOR ENERGY RECOVERY FROM WHOLE WASTE TIRES OR SHREDDED TIRES]~~. (a) The commission each calendar month shall pay a scrap tire recycler that meets the requirements of this section and rules adopted under this section an amount set forth in this subsection for shredded scrap tires the scrap tire recycler actually puts to an end use during the preceding calendar month. The payment amounts are as follows for the following categories:

(1) a scrap tire energy recovery facility shall receive \$30 per ton for whole or shredded scrap tire pieces used for fuel at the facility;

(2) a scrap tire recycler which utilizes shredded tire pieces for civil engineering applications or practices, which practices include but are not limited to, landfill protective cover, landfill liner cover, landfill leachate collection systems, embankment construction, erosion control, road base material, requested applications by political subdivisions, councils of government, or any other application approved by the executive director, shall receive \$20 per ton;

(3) scrap tire recyclers which engage in other recycling applications, including tire-derived material, shall receive \$30 per ton.

(4) scrap tire recyclers which utilize shredded tire pieces for septic system applications shall receive \$15 per ton for shredded tire pieces actually put to end use, provided that at least 150 tons of shreds is actually put to end use in each calendar quarter;

(5) scrap tire recyclers which recycle metal wire derived from scrap tire pieces shall receive \$15.00 per ton for scrap tire wire actually put to an end use; and

(6) scrap tire recyclers which utilize shredded tire pieces through a pyrolytic conversion process shall receive \$30 per ton for shredded tire pieces actually put to end use."

(9) On page 10, beginning on line 24, strike all of section 361.4772, and substitute the following:

"Sec. 361.4772. PROCEDURE FOR OBTAINING PAYMENT FOR SCRAP TIRE FACILITIES, SCRAP TIRE ENERGY RECOVERY FACILITIES, AND SCRAP TIRE RECYCLERS; RESTRICTIONS; FUND MANAGEMENT [RECYCLING FACILITY CONSTRUCTION GRANT].

(a) To receive payment under this section and Sections 361.477, 361.4771, a scrap tire facility, scrap tire energy recovery facility, and scrap tire recycler owner or operator must:

(1) apply to the commission for registration in the manner and on forms prescribed by commission rule;

(2) apply to the commission for payment:

(A) in a manner and on forms prescribed by commission rule; or

(B) as a voluntary alternative, by use of a removable storage medium stored in an industry standard file format acceptable to the commission;

(3) demonstrate that all tires or tire pieces for which the scrap tire facility, scrap tire energy recovery facility and scrap tire recycler applies for payment are whole scrap tires or shredded tires;

(4) send the commission a monthly report of the number of pounds of whole waste tires or shredded tires, or tire-derived material put to actual end use, subtotaled by weight attributed to each generator number or priority enforcement list number;

(5) demonstrate that any energy recovery activities comply with applicable air emission control standards and rules;

(6) submit evidence of financial responsibility in an amount adequate to assure proper cleanup and closure of the facility, if the person anticipates accepting an amount of whole scrap tires, shredded tire pieces, or tire-derived material for storage that exceeds the facility's 30-day supply; and

(7) provide any other information required by commission rule.

(b) A scrap tire energy recovery facility, or scrap tire energy recovery facility, may not store in excess of a 30-day supply of whole scrap tires, shredded tires or tire-derived material at a site at which the owner or operator intends to burn or store waste tires, [or] shredded tire pieces, or tire-derived material until the facility is registered by the commission as a scrap tire energy recovery facility storage site or a scrap tire energy recovery facility storage site. A scrap tire recycler may not store in excess of a 30-day supply of whole scrap tires, shredded tire pieces, or tire-derived material at a site at which the recycler intends to recycle or store whole scrap tires, shredded tire pieces, or tire-derived material until the facility is registered by the commission as a scrap tire recycler storage site.

(c) The commission may not pay a scrap tire energy recovery facility owner or operator for actual end use of scrap tires, shredded tire pieces, or tire-derived material if:

(1) the commission field office and central office program staff have not reviewed and approved for further processing by the commission all information submitted to the commission by the scrap [waste] tire energy

recovery facility owner or operator as required by Subsection (a) or rules adopted under this section:

(2) the commission determines that the facility:

(A) has not provided adequate financial assurance;

(B) does not have adequate fire protection; or

(C) is causing an imminent danger to public health or welfare;

(3) the facility does not have appropriate authorization from the commission to:

(A) perform scrap tire energy recovery at the energy recovery facility site if the end user is a scrap tire energy recovery facility owner or operator; or

(B) recycle scrap tires, shredded tire pieces, or tire-derived material at the recycling site if the end user is a scrap tire recycler; or

(4) the facility is not physically capable of performing:

(A) scrap tire energy recovery if the end user is a scrap tire energy recovery facility owner or operator; or

(B) scrap tire recycling, if the end user is a scrap tire recycler.

(d) The commission may not pay a scrap tire facility for shredded tire pieces or tire-derived material if:

(1) the commission field office and central office program staff have not reviewed and approved for further processing by the commission all information submitted to the commission by the scrap tire facility as required by subsection (a) or rules adopted under this section;

(2) the commission determines that the scrap tire facility:

(A) has not provided adequate financial assurance;

(B) does not have adequate fire protection; or

(C) is causing an imminent danger to public health or welfare;

(3) the scrap tire facility does not have appropriate authorization from the commission to perform processing operations at the facility; or

(4) the scrap tire facility is not physically capable of performing processing operations at the facility.

(e) The commission may not pay a scrap tire recycler for whole scrap tires, shredded tire pieces, or tire-derived material if the commission determines that the whole scrap tires, shredded tire pieces, or tire-derived material:

(1) are not being utilized for legitimate end use purposes; or

(2) delivered from out of state to be used in state.

(f) The commission shall adopt rules to manage payments from the fund to prevent depletion of the fund as follows:

(1) the commission shall pay scrap tire facilities and scrap tire energy facilities who have established end use markets and have not exceed their registered storage capacity under this section before using any allocation method authorized by this subchapter and before making other payments from the fund to other uses authorized by this subchapter.

(2) the commission shall pay scrap tire recyclers for whole tires, shredded tire pieces or tire derived material that is actually put to end use provided that:

(A) the commission does not exceed \$7,500,000 dollars per fiscal year; and

(B) the commission shall pay out no more than \$625,000 per calendar month;



(C) any unspent funds remaining at the end of the calendar month shall roll forward to the following month;

(D) scrap tire recyclers which exceed the maximum annual or calendar month payment requirement of subsection (f)(2)(A) and (B) for whole tires, shredded tires pieces or tire derived material put to actual end use shall receive a credit which shall carryover to the following calendar month or fiscal year.

(3) the commission shall use the balance of the fund for priority enforcement list site remediation, research grants to state entities for the use of shreds in civil engineering application, or any other use the commission deems necessary.

(g) In this section, "30-day supply" means an amount equal to the average of the amount of tires consumed for energy recovery or legitimately recycled in each of the six months immediately preceding the month for which the supply is being computed.

(10) On page 10, line 57, after the words "END USER", insert the following: "SCRAP TIRE PROCESSOR, SCRAP TIRE FACILITY, OR SCRAP TIRE ENERGY RECOVERY FACILITY".

(11) On page 10, line 60, after the words "end user", insert the following: "scrap tire processor, scrap tire facility, or scrap tire energy recovery facility".

(12) On page 14, line 29, after the word "user", insert the following: "scrap tire processor, scrap tire facility, or scrap tire energy recovery facility".

(13) On page 16, line 29, insert the following the word "tire": "facility, scrap tire processor, or".

(14) On page 16, delete lines 61 and 62

(15) On page 17, Amend section 23 of the bill to read as follows:  
"SECTION 23. Sections 361.478, 361.486, 361.4865, 361.497, and 361.499, Health and Safety Code, are repealed."

MADLA  
LUCIO

The amendment was read.

On motion of Senator Madla and by unanimous consent, Floor Amendment No. 1 was withdrawn.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend CSSB 1586 (committee printing) as follows:

(1) On page 13, beginning on line 24, strike the following phrase: "and any other real or personal property of the owner or operator in the state".

(2) On page 13, line 28, strike the phrase: "or, for personal property,".

(3) On page 16, beginning on line 39, delete the last sentence of proposed subsection (a) so that the legislation reads: "[~~The person audited shall bear the costs of the audits.~~]".

MADLA  
LUCIO

The amendment was read and was adopted by a viva voce vote.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSSB 1586** (committee printing) as follows:

On page 18, add a new Section 26 of the bill to read as follows and renumber subsequent sections appropriately:

"SECTION 26. Subchapter P, Chapter 361, Health and Safety Code, is amended by adding a new section 361.4995 to read as follows:

Sec. 361.4995. TIPPING FEE PROHIBITED. No person may pay, offer to pay, solicit, or receive a tipping fee for the collection of a scrap tire for which this chapter authorizes reimbursement from the State of Texas."

MADLA  
LUCIO

The amendment was read.

On motion of Senator Brown, Floor Amendment No. 3 was tabled by the following vote: Yeas 25, Nays 5.

Yeas: Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire.

Nays: Armbrister, Barrientos, Lucio, Madla, Zaffirini.

Absent-excused: Luna.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSSB 1586** (committee printing) as follows:

(1) On page 1, line 51, delete the phrase "pyrolysis, the production of crumb rubber or,".

(2) On page 2, strike lines 48 and 49 and substitute the following "bales tires,".

(3) On page 2, line 67, strike the words "baled tires,".

(4) On page 10, strike the language beginning on line 60 after the word "shall" through the word "quarter" on line 62, and insert the following:

"not exceed the registered storage capacity approved by the commission as of September 1, 1996."

(5) On page 10, line 68 before the word "A", insert the following:

"A scrap tire recycler producing tire-derived material may not exceed 20 million pounds of inventory of tire-derived material at any one time.

(c)".

(6) On page 10, line 69, strike the words "Subsection (a)" and substitute "Subsections (a) or (b)".

MADLA  
LUCIO

The amendment was read.

On motion of Senator Brown, Floor Amendment No. 4 was tabled by the following vote: Yeas 25, Nays 5.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, West, Whitmire.

Nays: Barrientos, Lucio, Madla, Shapleigh, Zaffirini.

Absent-excused: Luna.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend CSSB 1586 as follows:

Strike Sec. 361.482 in SECTION 12 of the bill (committee printing page 14, lines 22-33) and substitute the following:

"Sec. 361.482. PROHIBITION ON DISPOSAL OF ~~[SHREDDED]~~ TIRES IN LANDFILL. A person may not dispose of in-state or out-of-state whole used tires, [or] scrap tires, [that are eligible for reimbursement under this chapter] or shredded tire pieces [for which reimbursement has been paid under this subchapter] in a landfill, including a Type VIII-S tire monofill, unless the person resides in a geographic area determined by the Commission to have an inadequate end-use market for scrap tires. The disposal of used or scrap tires under this section is subject to Section 361.112 and rules adopted under that section.

The amendment was read.

On motion of Senator Bivins and by unanimous consent, Floor Amendment No. 5 was withdrawn.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend CSSB 1586 as follows:

Strike Sec. 361.482 in SECTION 12 of the bill (committee printing page 14, lines 22-33) and substitute the following:

"Sec. 361.482. PROHIBITION ON DISPOSAL OF ~~[SHREDDED]~~ TIRES IN LANDFILL. A person may not dispose of in-state whole used tires, [or] scrap tires, [that are eligible for reimbursement under this chapter] or shredded tire pieces [for which reimbursement has been paid under this subchapter] in a landfill, including a Type VIII-S tire monofill, unless the person resides in a geographic area determined by the Commission to have an inadequate end-use market for scrap tires. The disposal of used or scrap tires under this section is subject to Section 361.112 and rules adopted under that section.

The amendment was read and was adopted by a viva voce vote.

CSSB 1586 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1586 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 1586 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1586** was read third time and was passed by a viva voce vote.

#### **GUESTS PRESENTED**

The Presiding Officer, Senator Patterson in Chair, introduced to the Senate a delegation of members from the North Galveston County Chamber of Commerce.

The Senate welcomed its guests.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1899 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1899**, Relating to the creation, administration, powers, duties, operation, and financing of the Pine Island Bayou Stormwater Control District; granting the authority to issue bonds and impose taxes; granting the power of eminent domain.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1899 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1899** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Truan.

Absent-excused: Luna.

**CSSB 1899** was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

#### **COMMITTEE SUBSTITUTE SENATE BILL 310 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 310**, Relating to certain judicial salaries.

The bill was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Lindsay asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 310 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 310** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Moncrief.

Present-not voting: Lindsay.

Absent-excused: Luna.

**CSSB 310** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senator Lindsay asked to be recorded as "Present-not voting" on the final passage of the bill.

Senator Moncrief asked to be recorded as voting "Nay" on the final passage of the bill.

**SENATE BILL 1922 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1922**, Relating to the definition of coastal wetlands for purposes of the coastal management program administered by the Coastal Coordination Council.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 1922 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1922** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 1922** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Truan in Chair)

**LEAVE OF ABSENCE**

On motion of Senator Lindsay, Senator Nixon was granted leave of absence for the remainder of today on account of important business.

**SENATE BILL 1060 WITH HOUSE AMENDMENT**

Senator Patterson called **SB 1060** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment No. 1 on Third Reading**

Amend **SB 1060** on third reading as follows:

Strike Sections 12 and 13 of the bill and substitute the following:

**SECTION 12.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Patterson moved to concur in the House amendment to **SB 1060**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Luna, Nixon.

**SENATE BILL 99 WITH HOUSE AMENDMENTS**

Senator Patterson called **SB 99** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 99** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the wearing of protective headgear by certain motorcycle operators and passengers.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 661.003, Transportation Code, is amended to read as follows:

**Sec. 661.003. OFFENSES RELATING TO NOT WEARING PROTECTIVE HEADGEAR BY MINOR.** (a) A person commits an offense if the person:

(1) is younger than 21 years of age;

(2) operates or rides as a passenger on a motorcycle on a public street or highway; and

(3) ~~(2)~~ is not wearing protective headgear that meets safety standards adopted by the department.

(b) A person commits an offense if the person carries on a motorcycle on a public street or highway a passenger who is younger than 21 years of age and is not wearing protective headgear that meets safety standards adopted by the department.

(c) ~~It is a defense to prosecution under this section that at the time the offense was committed, the person required to wear protective headgear:~~

~~[(1) was at least 18 years old; and~~

~~[(2) presented a medical exemption complying with Subsection (d) to the peace officer who arrested the person.~~

~~[(d) Only a practicing physician licensed by the Texas State Board of Medical Examiners may issue a medical exemption and the physician may issue the medical exemption only to a person who has an acute head or facial injury that would be worsened if the person wore protective headgear. The medical exemption must be on a form prescribed by the department and expires on the 10th day after the date it is issued.~~

~~[(e)]~~ An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$50.

SECTION 2. (a) This Act takes effect September 1, 1997.

(b) The changes in law made by this Act apply only to an offense committed on or after September 1, 1997. An offense committed before September 1, 1997, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 1997, if any element of the offense occurred before that date.

(c) To the extent of any conflict, this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3. Section 1, Chapter 539, Acts of the 74th Legislature, Regular Session, 1995, is repealed.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Floor Amendment No. 1

Amend CSSB 99 as follows:

(1) On page 2, between lines 9 and 10, insert the following subsections:

(c) Motorcycles license fees, including renewal of commercial license or learner's permits, including fees collected under Subsection (d)-(g), shall be deposited in the Motorcycle Education Fund Account and shall be used to operate the Texas Motorcycle Operator Training and Safety Program.

(d) The fee for the renewal of a commercial license or learner's permit that includes the authorization to operate a motorcycle is \$45.

(e) The examination fee for a commercial license that includes the additional authorization to operate a motorcycle is \$15.

(f) The renewal fee for a driver's license that includes an authorization to operate a motorcycle is \$21.

(g) The application fee for a driver's license applicant applying for the additional authorization to operate a motorcycle is \$15.

The amendments were read.

Senator Patterson moved to concur in the House amendments to **SB 99**.

Senator Ratliff offered a substitute motion to not concur in the House amendments to **SB 99**.

#### **POINT OF ORDER**

Senator Bivins raised a point of order that Senator Ratliff's substitute motion to not concur in the House amendments to **SB 99** was not a proper motion, stating that it was incomplete.

#### **POINT OF ORDER RULING**

The Presiding Officer, Senator Truan in Chair, ruled that the point of order was well-taken and sustained.

Question—Shall the Senate concur in the House amendments to **SB 99**?

Senator Ratliff again offered a substitute motion to not concur in the House amendments to **SB 99** and to appoint a conference committee.

On motion of Senator Ratliff and by unanimous consent, the substitute motion to not concur and to appoint a conference committee was withdrawn.

Question—Shall the Senate concur in the House amendments to **SB 99**?

On motion of Senator Ratliff, further consideration of the House amendments to **SB 99** was postponed to a time certain of 11:00 a.m. Wednesday, April 30, 1997, by the following vote: Yeas 15, Nays 14.

Yeas: Duncan, Ellis, Gallegos, Harris, Haywood, Moncrief, Nelson, Ogden, Ratliff, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Fraser, Galloway, Lindsay, Lucio, Madla, Patterson, Shapiro, Shapleigh.

Absent-excused: Luna, Nixon.

Question—Shall the Senate concur in the House amendments to **SB 99**?

#### **SENATE RULE 11.19 SUSPENDED**

##### **(Posting Rule)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider **SB 130** today.

#### **SENATE RULES SUSPENDED**

##### **(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on Intergovernmental Relations might meet and consider **SB 1455** today.



**PERMISSION TO MEET GRANTED**

On motion of Senator Sibley and by unanimous consent, Senate committees were granted permission to meet during the Local and Uncontested Calendar Session.

**GUESTS PRESENTED**

The Presiding Officer, Senator Truan in Chair, introduced to the Senate former Member of the House of Representatives Ed Watson accompanied by his wife.

The Senate welcomed Mr. and Mrs. Watson.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Brown and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Natural Resources might consider **HB 376** today.

**SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

**SB 1935** by Barrientos

Relating to municipal hotel occupancy taxes.

To Committee on Intergovernmental Relations.

**SB 1936** by Cain

Relating to the composition of the Rockwall County Juvenile Board.

To Committee on Intergovernmental Relations.

**SJR 48** by Harris

Proposing a constitutional amendment to permit the denial of bail to certain persons charged with committing certain sexual offenses.

To Committee on Criminal Justice.

**HOUSE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution received from the House were read first time and referred to the committees indicated:

**HB 32** to Committee on State Affairs.

**HB 196** to Committee on Health and Human Services.

**HB 1012** to Committee on Intergovernmental Relations.

**HB 1112** to Committee on Criminal Justice.

**HB 1180** to Committee on State Affairs.

**HB 1200** to Committee on State Affairs.

**HB 1204** to Committee on Intergovernmental Relations.

**HB 1428** to Committee on State Affairs.

**HB 1548** to Committee on Education.

**HB 1901** to Committee on Economic Development.

**HB 1902** to Committee on Economic Development.

**HB 2073** to Committee on Criminal Justice.

**HB 2227** to Committee on Jurisprudence.

**HB 2827** to Committee on Criminal Justice.

**HB 2919** to Committee on Natural Resources.

**HB 3366** to Committee on State Affairs.

**HB 3367** to Committee on State Affairs.

**HJR 4** to Committee on Tax Reform and Public School Finance.

### **MOTION TO ADJOURN**

On motion of Senator Brown and by unanimous consent, the Senate at 3:13 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 10:00 a.m. tomorrow.

### **AT EASE**

The Presiding Officer, Senator Truan in Chair, at 3:14 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

### **IN LEGISLATIVE SESSION**

Senator Harris at 3:16 p.m. called the Senate to order as In Legislative Session.

### **SESSION HELD FOR LOCAL AND UNCONTESTED CALENDAR**

The Presiding Officer announced that the time had arrived to consider bills and resolutions placed on the Local and Uncontested Calendar. Notice of consideration of the local calendar was given by Senator Harris yesterday.

Pursuant to Senate Rule 9.03(d), the following bills and resolutions in the order listed were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed. The votes on suspension of the Constitutional Three-day Rule and final passage are indicated after each caption.

**HB 622** (Ellis) Relating to educational requirements for certain court clerks and personnel. (29-0) (29-0)

**HB 649** (Whitmire) Relating to the use of unmarked motor vehicles by county fire marshals. (29-0) (29-0)

**HB 718** (Whitmire) Relating to the appointment of a fire commissioner in certain rural fire prevention districts. (29-0) (29-0)

**HB 1018** (Wentworth) Relating to court costs imposed on persons convicted of certain offenses. (29-0) (29-0)

**HB 1979** (Brown) Relating to the selection of the chairman of the juvenile board in Fort Bend County. (29-0) (29-0)

**HB 2664** (Wentworth) Relating to the liability of certain persons for injury to others that occurs on agricultural land used for recreation. (29-0) (29-0)

**SB 66** (Moncrief) Relating to notice to the public and to public officials concerning activities affecting certain community corrections facilities. (29-0) (29-0)

**CSSB 113** (Moncrief) Relating to the duty of the pardons and paroles division of the Texas Department of Criminal Justice to notify law

enforcement of a prisoner's pending release or transfer to a halfway house.  
(29-0) (29-0)

**CSSB 156** (Nixon) Relating to directional signs on public highways for major agricultural interests, major shopping areas, and specific information.  
(29-0) (29-0)

**SB 361** (Madla) Relating to the continuation and functions of the Texas State Board of Acupuncture Examiners; providing penalties.  
(29-0) (29-0)

Senator Madla offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 361** as follows:

(1) Inserting the following as SECTION 1, and renumbering the remaining Sections accordingly:

SECTION 1. Section 6.02, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 6.02. In this subchapter:

(1) "Acupuncture" means:

(A) the nonsurgical, nonincisive insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition; and

(B) the administration of thermal or electrical treatments or the recommendation of dietary guidelines, energy flow exercise, or dietary or herbal supplements in conjunction with the treatment described by Paragraph (A) of this subdivision.

(2) "Acupuncturist" means a person who practices acupuncture.

(3) "Acupuncture board" means the Texas State Board of Acupuncture Examiners.

(4) "Chiropractor" means a licensee of the Texas Board of Chiropractic Examiners.

(5) "Executive director" means the executive director of the Texas State Board of Medical Examiners.

(6) "Medical board" means the Texas State Board of Medical Examiners.

(7) "Physician" means a licensee of the Texas State Board of Medical Examiners.

The committee amendment was read and was adopted by a viva voce vote.

Senator Madla offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **SB 361** as follows:

Amend Subchapter F, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), by adding section 6.118 to read as follows:

Rehabilitation Order

Sec. 6.118 (a) The board, through an agreed order or after a contested proceeding, may impose a nondisciplinary rehabilitation order on any

licensee or, as a prerequisite for issuing a license, on any licensure applicant based on one or more of the following:

(1) intemperate use of drugs or alcohol directly resulting from habituation or addiction caused by medical care or treatment provided by a physician;

(2) self-reported intemperate use of drugs or alcohol during the last five years immediately preceding the report which could adversely affect the reporter's ability to safely practice as an acupuncturist, but only if the reporting individual has not previously been the subject of a substance abuse related order of the board;

(3) judgment by a court of competent jurisdiction that the individual is of unsound mind; or

(4) results from a mental or physical examination, or admissions by the individual, indicating that the licensee or applicant suffers from a potentially dangerous limitation or an inability to safely practice as an acupuncturist with reasonable skill and safety by reason of illness or as a result of any physical or mental condition.

(b) A rehabilitation order entered pursuant to this section shall be a nondisciplinary private order and shall contain findings of fact and conclusions of law. A rehabilitation order, if entered by agreement, shall be an agreed disposition or settlement agreement for purposes of civil litigation and shall be exempt from the open records law, Chapter 552, Government Code.

(c) A rehabilitation order entered pursuant to this section may impose a revocation, cancellation, suspension, period of probation or restriction, or any other terms and conditions authorized under this Act or as otherwise agreed to by the board and the individual subject to the order.

(d) Violation of a rehabilitation order entered pursuant to this section may result in disciplinary action under the provisions of this Act for contested matters or pursuant to the terms of the agreed order. A violation of a rehabilitation order may be grounds for disciplinary action based on unprofessional or dishonorable conduct or on any of the provisions of this Act which may apply to the misconduct which resulted in violation of the rehabilitation order.

(e) The rehabilitation orders entered pursuant to this section shall be kept in a confidential file which shall be subject to an independent audit by state auditors or private auditors contracted with by the board to perform such an audit. Audits may be performed at any time at the direction of the board but shall be performed at least once every three years. The audit results shall be reported in a manner that maintains the confidentiality of all licensees who are subject to rehabilitation orders and shall be a public record. The audit shall be for the purposes of ensuring that only qualified licensees are subject to rehabilitation orders.

The committee amendment was read and was adopted by a viva voce vote.

Senator Madla offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **SB 361** as follows:

In Section 6.075 (filed version, page 10, line 8 through 24) strike the section in its entirety and insert the following:

Sec. 6.075. TEMPORARY LICENSE. (a) The acupuncture board may, through the executive director of the medical board, issue a temporary license to an applicant who:

(1) submits an application on a form prescribed by the acupuncture board;

(2) has passed a national or other examination recognized by the acupuncture board relating to the practice of acupuncture;

(3) pay the appropriate fee prescribed by the medical board;

(4) if licensed in another state, the District of Columbia, or a territory of the United States, is in good standing as an acupuncturist; and

(5) meets all the qualifications for a license under this Act but is waiting for the next scheduled meeting of the medical board for the license to be issued.

(b) A temporary license is valid for 100 days from the date issued and may be extended only for another 30 days after the date the initial temporary license expires.

The committee amendment was read and was adopted by a viva voce vote.

**CSSB 372** (Armbrister) Relating to certain regulatory functions of the Department of Agriculture. (29-0) (29-0)

**SB 502** (Zaffirini) Relating to autopsies performed on a body if the deceased was a child younger than six years of age. (29-0) (29-0)

Senator Zaffirini offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 502** as follows:

On page 1, line 17, insert the following as SECTION 2 of the bill and renumber each subsequent SECTION appropriately:

SECTION 2. Section 264.514(a), Family Code, is amended to read as follows:

(a) A medical examiner or justice of the peace notified of a death of a child under Section 264.513 shall hold an inquest under Chapter 49, Code of Criminal Procedure, to determine whether the death is unexpected. An inquest is not required under this subchapter if the child's death is expected and is due to a congenital or neoplastic disease. A death caused by an infectious disease may be considered an expected death if:

(1) the disease was not acquired as a result of trauma or poisoning;

(2) the infectious organism is identified using standard medical procedures; and

(3) the death is not reportable to the Texas Department of Health under Chapter 81, Health and Safety Code.

The committee amendment was read and was adopted by a viva voce vote.

**SB 531** (Cain) Relating to certain officers' duties for driver's license suspension. (29-0) (29-0)

**CSSB 550** (Moncrief) Relating to emergency protective orders. (29-0) (29-0)

**CSSB 605** (Armbrister) Relating to the movement of portable building units and compatible cargo over a state highway. (29-0) (29-0)

**CSSB 646** (Brown) Relating to court reporting firms. (29-0) (29-0)

**CSSB 781** (Ellis) Relating to the creation and operation of the Texans Work program and the establishment of the Texas employment and training account. (29-0) (29-0)

**CSSB 865** (Patterson) Relating to coverage under the Texas Catastrophe Property Insurance Association for certain demolition and debris removal expenses. (29-0) (29-0)

**SB 874** (Wentworth) Relating to certain reimbursements of expenses for members of the Texas State Board of Examiners of Marriage and Family Therapists. (29-0) (29-0)

**SB 875** (Shapiro) Relating to the applicability of the sex offender registration program to certain defendants, to the procedures used to register and monitor sex offenders, and to the imposition of criminal penalties. (29-0) (29-0)

Senator Shapiro offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 875**, in SECTION 1 of the bill, proposed Article 62.01, by striking Paragraphs (A) and (B) of Subdivision (5) and substituting:

"(A) a conviction for a violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a conviction for a violation of Section 43.25 (Sexual performance by a child) or 43.26 (Possession or promotion of child pornography), Penal Code;".

The committee amendment was read and was adopted by a viva voce vote.

Senator Shapiro offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend SB 875, in SECTION 1 of the bill, by striking proposed Article 62.11 and substituting a new Article 62.11 to read as follows:

Art. 62.11 [Sec. 8] APPLICABILITY [EXEMPTIONS]. [(a)] This chapter [article] applies only to a reportable conviction or adjudication[:

[(1)] occurring on or after[:

[(A)] September 1, 1991, ~~except that the provisions of Articles 62.03 and 62.04 of this chapter relating to the requirement of newspaper publication apply only to a reportable conviction or adjudication occurring on or after September 1, 1995 [if the conviction is for or the adjudication is based on an offense listed in Section 1(5)(A) of this article;~~

[(B)] September 1, 1993, ~~if the conviction is for or the adjudication is based on an offense listed in Section 1(5)(B) of this article; or~~

[(C)] September 1, 1995, ~~if the conviction is for an offense described under Section 1(5)(C), (D), (E), (F), (I), or (J) of this article; or~~

[(2)] ~~for which an order of deferred adjudication is entered by the court on or after September 1, 1993.~~

[(b)] ~~A person who has a reportable conviction or adjudication may petition a district judge in the county where the person resides or intends to reside for an exemption from this article. If the person shows good cause, the district judge shall grant the exemption].~~

The committee amendment was read and was adopted by a viva voce vote.

**CSSB 913** (Sibley) Relating to the operation and oversight of the medically underserved community-state matching incentive program. (29-0) (29-0)

**SB 922** (Cain) Relating to an exemption from regulation under the Private Investigators and Private Security Agencies Act for certain peace officers. (29-0) (29-0)

**CSSB 938** (Ellis) Relating to expanded hours of operation under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). (29-0) (29-0)

**SB 970** (Wentworth) Relating to certain district courts in Bexar County. (29-0) (29-0)

**SB 1036** (Barrientos) Relating to the charitable contributions of state employees. (29-0) (29-0)

**SB 1100** (Wentworth) Relating to the regulation of real estate brokers, real estate salesmen, and inspectors. (29-0) (29-0)

**CSSB 1108** (Duncan) Relating to the effect of certain regulations adopted by a joint airport zoning board. (29-0) (29-0)

**SB 1153** (Brown) Relating to the appraisal and ad valorem taxation of personal property; providing penalties. (29-0) (29-0)

**SB 1204** (Lucio) Relating to the disclosure by the Texas Department of Transportation of information pertaining to persons who subscribe to Texas Highways magazine or purchase certain promotional items from the department. (29-0) (29-0)

**CSSB 1218** (Patterson) Relating to venue in the prosecution of the offense of issuing a bad check. (29-0) (29-0)

**CSSB 1262** (Ellis) Relating to the provision of employment and training for certain persons on public assistance. (29-0) (29-0)

**CSSB 1287** (Gallegos) Relating to the inclusion of performance pay for purposes of contributions and benefits under the Teacher Retirement System of Texas. (29-0) (29-0)

**CSSB 1354** (Brown) Relating to the Board for Lease of University Lands, the leasing, management, and administration of certain public lands, and related fees and penalties. (29-0) (29-0)

**CSSB 1355** (Brown) Relating to the regulation of retail stores; providing an administrative penalty. (29-0) (29-0)

**SB 1368** (Ellis) Relating to the enforcement of certain traffic laws by private institutions of higher education. (29-0) (29-0)

**CSSB 1376** (Ellis) Relating to procedures for contract claims with the Texas Department of Transportation. (29-0) (29-0)

**CSSB 1417** (Ellis) Relating to judicial efficiency. (29-0) (29-0)

**CSSB 1438** (Wentworth) Relating to a late application by a veteran's organization for an exemption from ad valorem taxation. (29-0) (29-0)

**SB 1478** (Bivins) Relating to the issuance of a marriage license. (29-0) (29-0)

**CSSB 1495** (Bivins) Relating to notices required to be given in certain proceedings conducted by the Texas Natural Resource Conservation Commission. (29-0) (29-0)

**SB 1543** (Galloway) Relating to the authority of a county to charge fees for the regulation of wild animals. (29-0) (29-0)

**SB 1576** (Bivins) Relating to the development of performance measures by the Texas Agricultural Finance Authority. (29-0) (29-0)

**CSSB 1600** (Lindsay) Relating to the authority of a political subdivision to regulate coastal erosion and coastal flooding. (29-0) (29-0)

**CSSB 1601** (Lindsay) Relating to the authority of certain coastal counties to regulate development in flood-prone areas. (29-0) (29-0)

**CSSB 1624** (Duncan) Relating to the use and management of the state employee sick leave pool. (29-0) (29-0)

**SB 1627** (Duncan) Relating to the provision of certain comparison data for public school districts. (29-0) (29-0)



**SB 1631** (Duncan) Relating to the issuance of permits for the movement of oversize and overweight vehicles. (29-0) (29-0)

**SB 1654** (Nelson) Relating to certain students expelled from public school or ordered to attend a juvenile justice alternative education program. (29-0) (29-0)

**CSSB 1750** (Brown) Relating to the creation, administration, powers, and duties of the Upper Kirby Management District; granting the authority to issue bonds; authorizing a tax. (29-0) (29-0)

**SB 1751** (Armbrister) Relating to the adoption of a nonsubstantive revision of statutes relating to utilities, including conforming amendments, repeals, and penalties. (29-0) (29-0)

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1751** as follows:

(1) In Section 33.054(a), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 91, lines 12 and 13), strike "An appeal under this subchapter or Subchapter D is de novo" and substitute "An appeal under this subchapter, Subchapter D, or Subchapter E is de novo".

(2) In Section 37.051(a), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 173, line 14), strike "unless the utility obtains" and substitute "unless the utility first obtains".

(3) In Section 37.051(b), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 173, lines 22 and 23), strike "unless the utility obtains a certificate that includes the area in which the facility that receives the service is located." and substitute "unless the utility first obtains a certificate that includes the area in which the consuming facility is located."

(4) In Section 54.052(a), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 258, line 2), strike "unless the utility obtains" and substitute "unless the utility first obtains".

(5) In Section 54.052(b), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 258, lines 9-11), strike "unless the utility obtains a certificate that includes the area in which the facility that receives the service is located." and substitute "unless the utility first obtains a certificate that includes the area in which the consuming facility is located."

(6) In Section 58.062, Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 365, lines 18 and 19), strike "before the expiration of the four-year period prescribed by Section 58.054." and substitute "before the expiration of the cap on basic network services."

(7) Strike Section 104.055(e), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 496, lines 7-10), and substitute the following:

(e) This section is not intended to increase gas utility rates to the customer not caused by utility service. Utility rates may include only expenses caused by utility service.

(8) Strike Section 121.003(a), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 516, lines 7-14), and substitute the following:

(a) The act or acts of transporting, delivering, selling, or otherwise making available natural gas for fuel, either directly or indirectly, to an owner of an irrigation well, or the sale, transportation, or delivery of natural gas for any other direct use in an agricultural activity, does not make a person a gas utility or make the person subject to the jurisdiction, control, and regulation of the railroad commission as a gas utility.

(9) In the table of contents to Chapter 161, Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 547, between lines 10 and 11), insert the following:

Sec. 161.005. CHAPTER COMPLETE AND CONTROLLING

(10) In Subchapter A, Chapter 161, Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 550, after line 27), add a new Section 161.005 to read as follows:

Sec. 161.005. CHAPTER COMPLETE AND CONTROLLING. This chapter is complete in itself and is controlling. (V.A.C.S. Art. 1528b, Sec. 36 (part).)

(11) In Section 161.071(a), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 559, lines 8-10), strike the first sentence and substitute the following:

The business and affairs of an electric cooperative shall be managed by a board of directors. The board consists of at least three directors.

(12) In Section 161.121(10), Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 563, line 9), strike "that may be appropriate to accomplish" and substitute "that may be necessary, convenient, or appropriate to accomplish".

(13) In Section 186.001, Utilities Code, as added by SECTION 1 of the bill (Introduced Version, page 666, lines 12 and 13), strike "In this subchapter, "public utility" means" and substitute "In this subchapter, "public utility" means and includes".

(14) In the chapter heading to Chapter 67, Water Code, as added by SECTION 2 of the bill (Introduced Version, page 674, line 7, strike "CHAPTER 67. WATER SUPPLY OR SEWER SERVICE CORPORATIONS" and substitute "CHAPTER 67. NONPROFIT WATER SUPPLY OR SEWER SERVICE CORPORATIONS".

(15) In Section 67.002(1), Water Code, as added by SECTION 2 of the bill (Introduced Version, page 674, line 19), strike "base; or" and substitute "base; and".

(16) In Section 67.002(2), Water Code, as added by SECTION 2 of the bill (Introduced Version, page 674, line 21), strike "political subdivision or for another person" and substitute "political subdivision, private corporation, or another person".

(17) In Section 67.008(a), Water Code, as added by SECTION 2 of the bill (Introduced Version, page 677, lines 2 and 3), strike "paid annually to

political subdivisions or other persons" and substitute "paid annually to political subdivisions, private corporations, or other persons".

(18) In Section 67.009, Water Code, as added by SECTION 2 of the bill (Introduced Version, page 677, line 15), strike "lease, improve, or maintain" and substitute "lease, improve, extend, or maintain".

(19) In Section 67.010(c), Water Code, as added by SECTION 2 of the bill (Introduced Version, page 678, line 2), strike "may encumber any revenue" and substitute "may encumber any income, fees, rents, and other charges".

(20) Strike Section 67.016, Water Code, as added by SECTION 2 of the bill (Introduced Version, page 680, lines 3-27, and page 681, lines 1-27), and substitute the following:

Sec. 67.016. TRANSFER OR CANCELLATION OF STOCK, MEMBERSHIP, OR OTHER RIGHT OF PARTICIPATION. (a) A person or entity that owns any stock of, is a member of, or has some other right of participation in a corporation may not sell or transfer that stock, membership, or other right of participation to another person or entity except:

(1) by will to a person who is related to the testator within the second degree by consanguinity;

(2) by transfer without compensation to a person who is related to the owner of the stock or other interest within the second degree by consanguinity; or

(3) by transfer without compensation or by sale to the corporation.

(b) Subsection (a) does not apply to a person or entity that transfers the membership or other right of participation to another person or entity as part of the conveyance of real estate from which the membership or other right of participation arose.

(c) The transfer of stock, a membership, or another right of participation under this section does not entitle the transferee to water or sewer service unless each condition for water or sewer service is met as provided in the corporation's published rates, charges, and conditions of service. A transfer and service application must be completed on the corporation's standardized forms and filed with the corporation's office in a timely manner. The conditions of service may not require a personal appearance in the office of the corporation if the transferee agrees in writing to accept the rates, charges, and conditions of service.

(d) The corporation may make water or sewer service provided as a result of stock, a membership, or another right of participation in the corporation conditional on ownership of the real estate designated to receive service and from which the membership or other right of participation arises.

(e) The corporation may cancel a person's or other entity's stock, membership, or other right of participation if the person or entity fails to:

(1) meet the conditions for water or sewer service prescribed by the corporation's published rates, charges, and conditions of service; or

(2) comply with any other condition placed on the receipt of water or sewer service under the stock, membership, or other right of participation.

(f) Consistent with Subsection (a), the corporation may reassign canceled stock or a canceled membership or other right of participation to a person or entity that has legal title to the real estate from which the canceled membership or other right of participation arose and for which water or sewer service is requested.

(g) Notwithstanding Subsection (a), the corporation shall reassign canceled stock or a canceled membership or other right of participation to a person or entity that acquires the real estate from which the membership or other right of participation arose through judicial or nonjudicial foreclosure. The corporation may require proof of ownership resulting from the foreclosure.

(h) Service provided following a transfer under Subsection (f) or (g) is made subject to compliance with the conditions for water or sewer service prescribed by the corporation's published rates, charges, and conditions of service. (V.A.C.S. Art. 1434a, Sec. 9A.)

The committee amendment was read and was adopted by a viva voce vote.

**SB 1765** (Moncrief) Relating to certification of certain persons who practice acupuncture. (29-0) (29-0)

**SB 1793** (Wentworth) Relating to the power and authority of the Upper Guadalupe River Authority to borrow money for any corporate purpose or combination of corporate purposes. (29-0) (29-0)

**CSSB 1878** (Wentworth) Relating to authorizing certain municipal utility districts to repair and maintain streets and to issue bonds for that purpose. (29-0) (29-0)

**CSSB 1879** (Wentworth) Relating to the powers of the Lower Colorado River Authority to provide water services in Williamson County. (29-0) (29-0)

**CSSB 1924** (Nelson) Relating to the creation of municipal courts of record in Coppell. (29-0) (29-0)

#### **BILLS REMOVED FROM LOCAL AND UNCONTESTED CALENDAR**

Senator Zaffirini and Senator Harris requested in writing that **CSSB 1458** be removed from the Local and Uncontested Calendar.

Senator Wentworth requested in writing that **CSSB 1790** be removed from the Local and Uncontested Calendar.

Senator Wentworth requested in writing that **SB 1796** be removed from the Local and Uncontested Calendar.

Senator Armbrister requested in writing that **SB 1807** be removed from the Local and Uncontested Calendar.

Senator Brown and Senator Harris requested in writing that **CSSB 1864** be removed from the Local and Uncontested Calendar.

Senator Ogden and Senator Harris requested in writing that **CSSB 1913** be removed from the Local and Uncontested Calendar.

**SESSION CONCLUDED FOR  
LOCAL AND UNCONTESTED CALENDAR**

Senator Harris announced that the session to consider bills and resolutions placed on the Local and Uncontested Calendar was concluded.

**MEMORIAL RESOLUTIONS**

**SR 582** - by Carona: In memory of Nathan D. Maier of Dallas.

**SR 583** - by West: In memory of Glenn Boda Mills, Jr., of Dallas County.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**SR 571** - by Truan: Welcoming Miguel Angel Najera Herrera to the Texas State Capitol.

**SR 574** - by Harris: Congratulating the 136th Medical Squadron of the United States Air Force.

**SR 575** - by Lindsay: Congratulating Stephen Rose of Humble.

**SR 576** - by Shapleigh: Commending El Paso Community College.

**SR 577** - by Shapleigh: Commending the El Paso Hispanic Chamber of Commerce.

**SR 578** - by Shapleigh: Congratulating the El Paso Buzzards hockey team.

**SR 579** - by Shapleigh: Congratulating Kenneth and Maynard Haddad of El Paso.

**SR 580** - by Haywood: Congratulating Charles E. Carter, Jr.

**SR 581** - by Carona: Congratulating Donald Alden Buchholz of Dallas.

**HCR 111** - (Madla): Honoring Dr. Alfredo Gutierrez, Jr., of Del Rio.

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 3:46 p.m. adjourned until 10:00 a.m. tomorrow.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

April 24, 1997

COMMITTEE OF THE WHOLE SENATE ON LEGISLATIVE AND  
CONGRESSIONAL REDISTRICTING — **HB 6** (Ordered Not Printed)

CRIMINAL JUSTICE — **SB 548** (Amended), **CSSB 919**, **SB 1120**  
(Amended), **SB 1728** (Amended)

JURISPRUDENCE — **HB 242** (Amended), **SB 1195** (Amended),  
**CSSB 1081**, **CSSB 1786**

HEALTH AND HUMAN SERVICES — **SB 1517**, **SCR 34**

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY —  
**SB 1255**, **HB 930**, **HB 1049**

STATE AFFAIRS — **HB 449**, **HB 581**, **HCR 94**, **SB 1389**, **SB 1914**,  
**SB 1240**

EDUCATION — **SCR 74**, **SB 1042**, **SCR 13**

INTERGOVERNMENTAL RELATIONS — **HB 991**, **SJR 47**, **SB 1451**,  
**HB 707**, **SB 1260**, **HB 2066**, **HB 2277**, **HB 1651**

NATURAL RESOURCES — **SB 15**, **SB 16** (Amended), **SB 1925**